

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office action dated September 9, 2005 are respectfully requested.

I. Amendments

Claims 26, 34, 38, and 42 are amended to recite the composition/supplement is provided in a daily dose of about 0.3 g/kg. Basis for these amendments can be found on page 4, line 32 through page 5, line 3.

Claims 28-29, 32-33, 36-37, 40-41, and 44-45 are amended to recite the weight ratio of linoleic fatty acid to said α -linolenic fatty acid is 0.05-2.0. Basis for these amendments can be found on page 4, lines 23-24.

Claims 28-29, 32-33, 36-37, and 40-41 are additionally amended for proper antecedent basis.

No new subject matter has been added by way of these amendments.

II. Rejections under 35 U.S.C. §112, first paragraph

Claims 28-29, 32-33, 36-37, 40-41, and 44-45 were rejected under 35 U.S.C. §112, first paragraph as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants have amended the claims to recite a weight ratio of linoleic fatty acid to α -linolenic fatty acid is 0.05-2.0 as recited on page 4, lines 23-24.

Accordingly, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §112, first paragraph.

III. Rejection under 35 U.S.C. §112, second paragraph

Claims 28-29, 32-33, 36-37, and 40-41 were rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Specifically, the Examiner objected to the language "said food" for insufficient antecedent basis. Applicants have amended the claims for proper antecedent basis. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §112, second paragraph.

IV. Rejections under 35 U.S.C. §102

Claims 26, 28, 34, 36, 38, 40, 42, and 44 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Martin (U.S. Patent No. 4,061,738) as evidenced by Aldrich (1994-1995, pp. 866-867, 1075).

These rejections are respectfully traversed.

A. The Present Claims

The present invention, as embodied in claims 26, 34, 38, and 42, relates to a composition (claim 26), an edible oil composition (claim 34), a dietary supplement (claim 38), and a food composition (claim 42) comprising flaxseed oil, wherein the composition/supplement has a total weight ratio of linoleic fatty acid (n-6, 18:2) to α -linolenic fatty acid of 0.05-7.5, and wherein the composition/supplement is provided in a daily dose of about 0.3 g/kg.

B. The Prior Art

Martin describe a process for reducing platelet adhesiveness by orally administering an effective amount of an enriched, edible flaxseed oil.

C. Analysis

According to the M.P.E.P. § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference".

Martin fails to teach a composition/supplement as presently claimed wherein the composition/supplement is provided in a daily dose of about 0.3 g/kg. The only mention of dose by Martin is 15 ml/day or at least 70% of the 15 ml/day. As noted by

the Examiner, and as evidenced by the Aldrich catalog, these components have a density of about 0.9 g/mL. Using 70 kg as the weight of an average individual, as suggested by the Examiner, administration would be in a dose of about 0.19 g/kg. As noted above, the present claims recite the composition/supplement is provided in a daily dose of about 0.3 g/kg.

Accordingly, Applicants submit that the standard of strict identity to maintain a rejection under 35 U.S.C. §102 has not been met. Withdrawal of the rejection under 35 U.S.C. §102(b) is respectfully requested.

V. Rejections under 35 U.S.C. §103

Claims 27, 29, 35, 37, 39, 41, 43, and 45 were rejected under 35 U.S.C. §103 as allegedly obvious over Martin and Aldrich and further in view of both Kobayashi et al. (EP 0435683) and Kraybill et al. (U.S. Patent No. 2,353,571).

These rejections are respectfully traversed.

A. The Present Claims

The present claims are summarized above.

B. The Cited Art

KOBAYASHI ET AL. disclose a nutrient composition comprising (i) potato protein and/or an enzymatic hydrolysates thereof and (ii) oil and/or fat have an anti-platelet-aggregation effect and an anti-hyperlipidemic effect. The preferred oil or fat contains large amounts of α -linolenic acid and/or linoleic acid. The oil or fat may be perilla oil.

KRAYBILL ET AL. describe a method of recovering phosphatide material from a vegetable oil. The phosphatide-containing vegetable oils may include rapeseed oil.

C. Analysis

As stated in M.P.E.P. § 2143, "to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references (or references when combined) must teach or suggest all the claim limitations."

As discussed above, Martin and Aldrich fail to show or suggest a composition, edible oil, dietary supplement, or food composition comprising:

1. flaxseed oil
2. a linoleic/linolenic fatty acid weight ratio of 0.05-7.5; and
3. wherein the composition/supplement is provided in a daily dose of about 0.3 g/kg.

The combined and/or separate teachings of Kobayashi *et al.* and Kraybill *et al.* do not make up for this deficiency as neither reference teach a composition/supplement provided at the claimed daily dose or the claimed ratio.

Since the combined and/or separate teachings of the cited references fail to teach all of the claimed elements, the standard for obviousness has not been satisfied and withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

VI. Conclusion

In view of the foregoing, Applicants submit that the claims pending in the application are in condition for allowance. A Notice of Allowance is therefore respectfully requested.

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If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4410.

Respectfully submitted,



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